

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS**

October 17, 2011 – 6:00 PM

J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING
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Present: Chad Mitchell, Chairman
Carl Ford, Vice-Chairman
Jon Barber, Member
Raymond Coltrain, Member
Jim Sides, Member

County Manager Gary Page, Clerk to the Board Carolyn Athey, County Attorney Jay Dees and Finance Director Leslie Heidrick were present.

Chairman Mitchell convened the meeting at 6:00 pm.

Commissioner Sides provided the Invocation and also led the Pledge of Allegiance.

CONSIDER APPROVAL OF THE MINUTES

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the minutes of the October 3, 2011 Commission Meeting passed unanimously.

CONSIDER ADDITIONS TO THE AGENDA

There were no additions to the agenda.

CONSIDER DELETIONS FROM THE AGENDA

There were no deletions from the agenda.

CONSIDER APPROVAL OF THE AGENDA

Commissioner Ford moved, Commissioner Barber seconded and the vote to approve the agenda passed unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

Commissioner Barber moved approval of the Consent Agenda. The motion was seconded by Commissioner Coltrain and passed unanimously.

The Consent Agenda consisted of the following:

- A. Set Public Hearing for November 7, 2011 for Financing of Communications Project
- B. Set Public Hearing for November 7, 2011 for Majority Petition for Shadow Creek Trail

2. PUBLIC COMMENT PERIOD

Chairman Mitchell opened the Public Comment Period to entertain comments from any citizens wishing to address the Board. The following individuals came forward:

- Craig Pierce thanked County Manager, Gary Page, for his professionalism and dedication to Rowan County and to the Board of Commissioners. Mr. Pierce mentioned recent press coverage concerning the construction of the 911 Center, and said the coverage was unfairly directed towards Mr. Page. Mr. Pierce said the consolidation efforts with the City of Salisbury in the 911 Center were for the benefit of all and he encouraged citizens to attend Commission Meetings to be better informed.
- Elizabeth Bowman expressed appreciation to the Board of Health Animal Control Subcommittee for researching ways to improve Animal Control. Ms. Bowman also expressed appreciation to Chairman Mitchell for attending the Committee meetings and offering positive feedback.
- Tina Hall discussed the offer from the Rowan County Fair Association (RCFA). Ms. Hall said the offer was for \$1 million and the County was being asked to finance the purchase for 40 years. Ms. Hall asked the Board to request additional information before making its decision.

With no one else wishing to address the Board, Chairman Mitchell closed the Public Comment Period.

3. CONSIDER APPROVAL OF RESOLUTION OF OPPOSITION TO CONSOLIDATION OF JUDICIAL AND PROSECUTORIAL DISTRICTS

Chairman Mitchell read the Resolution of Opposition to Consolidation of Judicial and Prosecutorial Districts as follows:

Whereas, the General Assembly has formed a Committee to study the number and structure of judicial and prosecutorial districts in the State; and

Whereas, the Committee shall make recommendations to reduce those districts by consolidation; and

Whereas, Rowan County needs more judges, prosecutors, magistrates and victim/witness legal assistants, according to State workload formulas; and

Whereas, Rowan County Court Officials have a plan of action to reduce the Criminal Superior Court backlog, currently the oldest and largest backlog in the State; and

Whereas, Rowan County District Court saw a nine percent increase in criminal cases filed over the previous year; and

Whereas, Rowan County ranks second in the State for jail overcrowding; and

Whereas, jail overcrowding is more efficiently addressed when Officials maintain their focus on Rowan County; and

Whereas, Rowan County's Family Court, which receives no State funding, maintains the best practice standard of one family/one judge without undue delay; and

Whereas, Rowan County's eleven law enforcement agencies rely on direct access to the District Attorney; and

Whereas, Rowan County Court Officials dividing their responsibilities in a consolidated district would be less accountable to the needs of Rowan County justice and public safety; and

Whereas, Rowan County Courts will be destabilized by consolidation; and

Whereas, consolidating Rowan County with other judicial and prosecutorial districts will not increase efficiency or improve the quality of justice.

Now, Therefore Be It Resolved, that the Rowan County Board of Commissioners strongly opposes the State consolidating Rowan County's judicial and prosecutorial districts with any other judicial and prosecutorial district.

Be it Further Resolved that the Rowan County Board of Commissioners directs that a copy of this resolution be transmitted to its local legislative delegation and all other Rowan County municipalities to solicit their support in defeating any proposed legislation of this nature.

Commissioner Sides moved approval of the Resolution. The motion was seconded by Commissioner Ford.

Chief District Court Judge Charlie Brown and District Attorney Brandy Cook were in attendance to discuss the proposed legislation concerning consolidation of judicial and prosecutorial districts.

Ms. Cook thanked the Board for allowing the Resolution to be placed on the agenda and she then read a list of officials in support of the Resolution. The officials included the following: David Allen, Cleveland Police Chief; Rowan County Sheriff, Kevin Auten; Jeffrey Barger, Clerk of Superior Court; Hugh Bost, Rockwell Police Chief; Charlie Brown, Chief District Court Judge; Woody Chavis, Kannapolis Police Chief; Rory Collins, Salisbury Police Chief; Catherine Combs, Judicial District Manager Probation/Parole; Brandy Cook, District Attorney; Mark Cook, Granite Quarry-Faith Police Chief; Michael James, Spencer Police Chief; Darrin Jordan, Rowan County NC State Bar Counselor; Eddie Kluttz, China Grove Police Chief; Michael Phillips, President Rowan County Bar Association; Anna Mills Wagoner, Senior Resident Superior Court Judge; Darren Westmoreland, Acting Chief for East Spencer Police Department; Bob Wood, Acting Chief of Landis Police Department and Todd Wyrick, Chief Magistrate.

Commissioner Sides said he had contacted Kevin Leonard with the North Carolina Association of County Commissioners (NCACC) in an effort to

determine if committees had been established and appointed to study the issue. Commissioner Sides said he also inquired as to who the members might be and when they would meet so that Commissioners might attend the meetings.

Commissioner Sides said he understood the Senate had established a committee and had appointed one member, Senator Thom Goolsby. Commissioner Sides said the House had formed a committee and appointed one member, Representative Leo Daughtry. Commissioner Sides said all members had not been appointed; however, Mr. Leonard was to advise back once the membership was completed and meetings were scheduled.

Commissioner Sides said he had asked the NCACC to make the issue one of its priorities. Mr. Leonard had responded that the NCACC did not currently have a position on the matter since some counties would favor consolidation while some would be opposed. Commissioner Sides recommended sending a copy of the resolution to the NCACC and to the North Carolina League of Municipalities. Commissioner Sides said he had talked to Rowan County's legislative delegation and they were currently in opposition to the consolidation.

Commissioner Barber offered an amendment to the resolution and he moved to add a sentence at the end of the second to the last paragraph, stating "but does support the reduction of other districts by consolidation if deemed necessary". Commissioner Coltrain seconded the motion for discussion purposes.

After a brief discussion, Commissioner Barber withdrew the motion to amend the resolution.

Commissioner Barber offered a second amendment and moved to add a language in the last paragraph for the resolution to be transmitted "to all other Rowan County municipalities". The motion was seconded by Commissioner Coltrain and passed unanimously.

Chairman Mitchell asked that the resolution also be posted on the Clerks Listserv.

Upon being put to a vote the motion to approve the resolution passed unanimously.

4. CONSIDER OFFER FROM ROWAN COUNTY FAIR ASSOCIATION TO PURCHASE FAIRGROUNDS PROPERTY

Chairman Mitchell said there appeared to be two (2) decisions for the Board to make regarding the offer from the Rowan County Fair Association (RCFA) to purchase the fairgrounds property. Chairman Mitchell said the first decision was whether the Board wished to move ahead with a potential sale of the property, and secondly, if the answer was yes, the Board would need to determine the terms for the sale.

Attorney Doug Smith, representing the RCFA, recalled that since 2004, the RCFA had been meeting with the Board of Commissioners concerning issues of promoting the Rowan County Fair. Mr. Smith asked the Board to consider the proposal, with the main terms providing for the County to finance the purchase for forty (40) years at \$25,000 per year for a principal amount of \$1 million. Mr. Smith said the RCFA would be responsible for the capital necessary for upgrades to the facilities at the fairgrounds.

Mr. Smith requested the Board consider waiving the first year payment of \$25,000 in order to allow the RCFA to gather its resources to begin the upgrades. Mr. Smith said if the RCFA ceased to exist or sold the property during the forty (40) year repayment period, the property (minus the capital upgrade and the payments towards principal), the property would revert back to the County during the forty (40) year period.

Mr. Smith said the RCFA was asking the Board to support the Rowan County Fair so that it could provide the citizens, in perpetuity, an agricultural and industrial Fair for the enjoyment of Rowan County citizens and the citizens of neighboring counties.

Commissioner Sides said there were too many unanswered questions regarding clawback provisions, restrictions on the property, how much acreage was involved, etc. Commissioner Sides said he was not in favor of changing the current arrangement with the RCFA at this time.

Commissioner Barber referenced communications from July and said the initial offer was \$500,000 for all the property on the north side of Julian Road, or approximately 42 acres. Commissioner Barber said the fair market value (FMV) was approximately \$1.3 million.

County Manager Gary Page said he and Chairman Mitchell had met with Johnny Love of the RCFA to discuss the \$1 million offer. The offer included 40 acres on the north side of Julian Road that adjoined Rowan Cabarrus Community College (RCCC). Mr. Page said the proposed terms were for 40 years, zero percent interest and \$25,000 per year, with the right to use the property on the south side of Julian Road for several years until the RCFA could build its own parking lot. Mr. Page said the County would retain the acreage on the south side. Mr. Page said if the RCFA were to make improvements and the County found an industrial client to sell the property to in the next three (3) years, the County would have to reimburse the RCFA for their improvements. Mr. Page said the RCFA would be able to have alcohol sales as an approved term. Mr. Page concluded by saying the RCFA would be responsible for all expenses, including capital improvements, mowing, etc.

Chairman Mitchell said once the offer reached the \$1 million figure it had become more reasonable to bring the offer to the Board. Chairman Mitchell said there was no document being presented for approval due to any pending conditions the Board might wish to impose. Chairman Mitchell said if the Board decided to move forward, a contract would be brought back to the Board for final approval, or the Board could state it was not interested in selling the property.

Commissioner Barber inquired as to what the final terms/conditions were when the County sold Fieldcrest Cannon Stadium (Stadium) to the City of Kannapolis. Mr. Page said the County sold its 75% interest to the City of Kannapolis for \$3 million with annual payments of \$50,000 for 60 years, interest free. Mr. Page said the Stadium was allowed to have beer sales.

Commissioner Barber said the terms and conditions regarding the Stadium were not much different than the offer from the RCFA. Commissioner Barber said the Board had made the decision in the past ten (10) months to dispose of surplus property and to be flexible in those terms. Commissioner Barber said the RCFA had been more successful promoting events at the fairgrounds property than the County. Commissioner Barber felt the offer before the Board was made in the same spirit as the Stadium deal. Commissioner Barber mentioned the economic impact of a previous event, Smokeout, which had been held on the property. Commissioner Barber said the County had also incurred costs since taking over the property.

Commissioner Ford cited reasons he felt the Stadium sale should not be compared to a proposed sale for the fairgrounds property. Commissioner Ford referred to the Smokeout event mentioned by Commissioner Barber and said the County had spent quite a bit of money in a lawsuit over an alcohol related incident as a result of the event. Commissioner Ford said he was fine with the current operation of the fair. Commissioner Ford admitted that improvements were needed at the fairgrounds. Commissioner Ford said the property next to the fairgrounds was sold at \$80,000 per acre. Commissioner Ford wondered if the fairgrounds property would be needed for future growth at RCCC.

Commissioner Coltrain discussed the value and quality of life for putting on a fair for the citizens. Commissioner Coltrain said he was disappointed that the terms were not spelled out in order for the Board to approve an agreement during the current meeting. Commissioner Coltrain said it would be up to the RCFA as to what events they would hold. Commissioner Coltrain favored moving forward with the sale of the property; however, he stated that he wanted to include a time limit in the terms regarding the use of the parking lot.

Mr. Smith said if the Board were to consider the sale of the property in the principal amount, he could work with the County Attorney, Jay Dees, to draft a more specific document for the Board's review.

Commissioner Coltrain moved to establish a committee to bring back a proposal in one (1) month.

In response to a query from Commissioner Barber, Commissioner Coltrain confirmed the proposal should be brought to the Board on November 21, 2011.

Commissioner Barber seconded the motion.

Chairman Mitchell asked Commissioner Coltrain if the motion was to direct Mr. Dees and Mr. Smith to meet and create the specifics of the contract, or, was Commissioner Coltrain asking for more input from the Board. Commissioner Coltrain responded that he felt the two (2) attorneys could bring a proposal to the Board for approval based on the information obtained by the County Manager from the RCFA.

Chairman Mitchell restated the motion, which was to request that Mr. Dees and Mr. Smith work on a document to bring back to the Board no later than November 21, 2011.

Commissioner Sides said he would vote against the motion. Commissioner Sides said he was not satisfied with what had been presented in regards to the \$1 million offer for the entire 42 acres and he felt the County should investigate as to whether some of the property might eventually be needed by RCCC. Commissioner Sides said there were other provisions he wanted to see included in the contract.

Chairman Mitchell said the Board would be able to amend any document submitted. Chairman Mitchell said if the motion passed, any Commissioner that wished to provide input should forward their recommendations to the County Attorney. Chairman Mitchell also recommended that if the motion passed, the County Manager should be directed to speak with RCCC officials to determine if there was a need for the property in the future. Chairman Mitchell said he understood the RCFA had discussed potential partnering for a parking lot.

In response to a query from Chairman Mitchell, Mr. Dees said he could create an outline of issues for the Board to address. Mr. Dees said a survey needed to be performed for the property.

Commissioner Sides felt the two (2) attorneys should have the terms the Board was willing to accept prior to bringing a document back to the Board.

Upon being put to a vote, the motion on the floor passed 3-2 with Commissioners Ford and Sides dissenting.

5. CONSIDER APPROVAL OF ARCHITECT'S RENDERING FOR NEW 911 CENTER

Chairman Mitchell said the issue before the Board was a process that had been ongoing for over 2 ½ years and a lot of time had been spent planning the project. Chairman Mitchell said one of the major issues with the new facility came down to the fact that 911 reserve funds could be used for the construction of the new 911 Center (Center); however, the funds could not be used after June 2012.

Chairman Mitchell said the Board members were all in receipt of a letter from City of Salisbury (City) Interim City Manager, Doug Paris, asking the Board to delay a decision until a time when a consolidation study could be assessed. Chairman Mitchell pointed out the issue with the request was the potential loss of the \$590,000 in funds. Chairman Mitchell said if the Board went through with Mr. Paris' request, the grant that would potentially pay for the Center was not guaranteed and the \$590,000 could be lost

Chairman Mitchell said in a meeting with Mr. Paris and Mayor Susan Kluttz, the City indicated they were amenable to study the consolidation issue but needed time to do so. Chairman Mitchell said the City asked the County to consider four (4) telecommunicators dedicated to Salisbury fire dispatch and to also consider purchasing ruggedized radios that would allow more waterproof protection.

Chairman Mitchell said the issue currently before the Board was to consider the architectural rendering for the proposed 911 Center.

County Manager Gary Page submitted an architectural rendering of the proposed new 911 Center on Old Concord Road and offered the proposed exterior design for approval. Mr. Page said the Board had already approved the floor plan which included consolidation and square footage to accommodate the city of Salisbury.

Mr. Page said there was a drainage ditch that ran through the middle of the property, which actually provided a barrier and prevented public access to the building. Mr. Page said the facility was designed to be able to withstand hurricanes and high winds, prevent people from being within 80', have bulletproof windows, etc. Mr. Page said the facility would be a nerve center for emergency operations in the County.

Telecommunications Director Rob Robinson provided a power point presentation depicting the design and site for the Center. Mr. Robinson discussed the location of a former nursing home and a private driveway that connected to the back of the nursing home property, as well as another property. Mr. Robinson said the property owners had easements for these driveways. Mr. Robinson discussed the possibility of gating the property for the Center and providing the two (2) property owners with a key to the gate. Mr. Robinson said there were other entrances to the nursing home site. Mr. Robinson said the back portion of the Center's property must be secured and the gate seemed the best option.

After further discussion, Commissioner Sides said the property owner should be approached regarding a purchase price for the easement rights. Mr. Robinson said he would pursue the issue.

As Mr. Robinson showed the architect's rendering of the building, Mr. Page described the interior features and exterior features.

Commissioner Coltrain moved approval of the architect's rendering as submitted. The motion was seconded by Commissioner Barber.

Commissioner Sides said over the past several weeks there had been a lot of misinformation and a lot of back/forth between the County and the City regarding the need for the Center and for spending the money. Commissioner Sides said the County had been accused of wanting to waste money and he wanted the citizens to understand the comment was not true and that the County was under a federal mandate and had no choice but to proceed with the project.

Commissioner Sides said he thought the citizens understood since they had voted to support the ¼ cent sales tax for the project. Commissioner Sides pointed out the City was duplicating services and not the County. Commissioner Sides said the County provided 911 for all of Rowan County with the exception of the Salisbury Police Department. Commissioner Sides said the study for the project had been ongoing for 2 ½ years and everyone had known the County had a deadline to meet. Commissioner Sides said the City was given the opportunity to participate in the discussions; however, the City Manager and City Council had chosen not to attend the meetings. Commissioner Sides pointed out that if the City decided it no longer wanted to dispatch its police department, the County would have to take over. Commissioner Sides said it would make no sense for the County not to build the new facility large enough to accommodate the City's dispatchers. Commissioner Sides expressed disappointment with the actions of Salisbury City Council. Commissioner Sides said the County currently paid the City a large sum of money to be located on their communications tower and that he preferred for the County to have its own tower. Commissioner Sides said the comments in the Salisbury Post over the last few weeks were not truthful and he offered to discuss the project with anyone who wished to contact him.

Commissioner Barber said if he was a 911 employee he would be upset after reading some of the comments in the paper over the past week. Commissioner Barber congratulated the 911 employees for doing a good job.

Commissioner Ford questioned the City's request for ruggedized radios and Mr. Robinson discussed the radio options and pricing. Mr. Page said if bids for the overall project came in under budget, the County could possibly revisit the radio purchases.

Upon being put to a vote, the motion on the floor passed unanimously.

6. CONSIDER REQUEST FOR STAFF TO RESEARCH FIREARM ORDINANCE

Commissioner Coltrain recalled that during regular session on September 6, 2011, Sarah Martin and her husband had shared concerns regarding neighbors that had been target practicing and had hit the Martin's barn with a stray bullet. Ms. Martin had appealed to the Board for assistance with adoption of an ordinance to protect citizens from such incidents.

Commissioner Coltrain asked if the Board was agreeable to direct Planning Staff and the County Manager to research what other counties had done to address firearms issues and to bring the information back to the Board in 2 to 3 months.

Chairman Mitchell questioned Sheriff Auten regarding his department's response to an individual calling in regards to stray bullets. Sheriff Auten said the response time was determined by whether the incident was intentional or accidental.

Commissioner Coltrain said he wanted to ensure that people were being responsible when using their firearms and he moved to instruct staff to research other county ordinances on stray bullets.

The motion died due to the lack of a second.

7. ADJOURNMENT

There being no further business to come before the Board, Commissioner Sides moved to adjourn at 7:47 pm. The motion was seconded by Commissioner Ford and passed unanimously.

Respectfully Submitted,

Carolyn Athey, CMC, NCCCC
Clerk to the Board/Assistant to the County Manager